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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,821	11/13/2003	E. Michael Ackley JR.	4389-5	7840
23117	7590	12/29/2005		
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			EXAMINER PHAM, HOA Q	
			ART UNIT 2877	PAPER NUMBER

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,821

Applicant(s)

ACKLEY ET AL.

Examiner

Hoa Q. Pham

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-23, 25-37, 39-42, 44-48, 51, 53, 57-63, 85, 86 and 97-121 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13, 15 and 16 is/are allowed.
- 6) ☒ Claim(s) 17-23, 25, 27-37, 39-42, 44-48, 51, 53, 57-60, 62, 63, 85, 86, 97-103, 105-110 and 112-116 is/are rejected.
- 7) ☒ Claim(s) 26, 61, 104, 111 and 117-121 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p> |
|---|--|

DETAILED ACTION

1. With respect to the amendment filed on 10/12/05, claims 1-13, 15-23, 25-37, 39-42, 44-48, 51, 53, 57-63, 85-86 and 97-121 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17, 28, 29, 30, 31, 97 and 100, 101 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patrick (FR-002738638A1).

Regarding claims 17 and 97, 100, 101, Patrick discloses a single operation egg screening and sorting device comprises a camera (1) placed above a conveyor belt (2), a number of central holes (3) where the eggs (4) are positioned; and a light source (5) positioned below the belt for generating a beam which illuminates the eggs (figure 1). Patrick does not teach that the camera is located inside of the belt to sense the first side of the egg that visible through the holes. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to exchange the position of the light source and the camera because they would function in the same manner.

Regarding claim 28, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the basic device of Patrick to inspect

the characteristics of a caplet instead of an egg taught by Patrick because they would function in the same manner.

Regarding claim 29-31, it would have been obvious to one having ordinary skill in the art at the time the invention was made to sort the articles of Patrick on the basis of measuring different characteristics of the articles by the camera.

4. Claims 85-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Satake et al (6,097,493) in view of Stewart et al (5,351,117).

Regarding claim 86, Satake et al discloses a device for evaluating quality of granular objects comprises a driving means (18) for conveying one row of articles along a transport path; a first and second comparing means for comparing the predetermined characteristics against a given standard (threshold) and using a sorting device (19,20) for removing the articles from the transport path (see figure 5). Satake et al does not teach step of "actively accepting selected ones of the articles which are acceptable by forcing them away from the transport path" and "passively allowing rejected ones of the articles to be removed from the transport path". However, such a feature is known in the art as taught by Stewart et al. Stewart et al, from the same field of endeavor, teaches the use of air jet (23) for blowing out the selected articles into a sort bin (column 17, lines 30-42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the removal mechanism (19) of Satake et al by a removal mechanism of Stewart et al for the same purpose of remove the selected articles from the pockets of the sorting device.

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5. Claims 18-23, 25, ²⁷32-37, 39-42, 44-48, 51, 53, 57-60, 62-63, 98, 99, 102-103, 105-110, 112-116 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patrick in view of Boyce (5,979,309), Satake et al (6,097,493) and Stewart et al (5,351,117).

Regarding claims 18, 19, 32, 62, 98, 99, 103, 105, 109, 110, Boyce discloses a pellet inverting device in which pellets are transported in cavities on carrier bars mounted on a conveyor and passed beneath a first and second printing means (34, 40). Boyce suggests different surface areas of the pellet are inspected (see column 8, lines 7-35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the basic device of Patrick to detect the articles in a plurality of the carrier bars taught by Boyce, thus increasing the speed of inspection.

Regarding claims 20-23, 25, 33-37, 40-42, 44-45, 48, 51, 53, 57-59 and 63; Satake et al teaches that both camera units are used for inspecting surface defects such as color, size and shape of the pellets (column 3, lines 42-57 and column 4, lines 6-26) and figure 8 of Satake et al discloses an image processing unit (20) and sorting unit (19) in communication with the first camera unit (4,12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include in Patrick an additional camera for inspecting a second side of the articles as taught by Satake et al. The rationale for this modification would have arisen from the fact that using both cameras for inspecting different sides of the article would increase the speed of the inspection.

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Regarding claims 23 and 37, Boyce teaches that the tablet, pills or capsules are inspected (see column 1, lines 17-19).

Regarding claim 32, Patrick does not teach step of “actively accepting selected ones of the articles which are acceptable by forcing them away from the transport path” and “passively allowing rejected ones of the articles to be removed from the transport path”. However, such a feature is known in the art as taught by Stewart et al. Stewart et al, from the same field of endeavor, teaches the use of air jet (23) for blowing out the selected articles into a sort bin (column 17, lines 30-42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the removal mechanism of Patrick by a removal mechanism of Stewart et al for the same purpose of remove the selected articles from the pockets of the sorting device.

Regarding claim 39, Satake et al teaches that the two inspection units (4 and 12) are opposite with respect the conveyor (figure 5), it would have been obvious to one having ordinary skill in the art the time the invention was made to arrange the inspection units so that one is positioned transverse to and on an upper side of the conveyor and the other is positioned transverse to and on an inner side of the conveyor, since it has been held that rearranging parts of the invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Regarding claims 27, 46, 47, and 60; see air jet (23) in figure 16 of Stewart et al.

Regarding claims 106-108, 112, 113, 114, 115, see figure 1 of Patrick.

Regarding claim 116, see figure 2 of Boyce.

Allowable Subject Matter

6. Claims 1-13 and 15-16 are allowed.
7. Claims 26, 61, 104, 111 and 117-121 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

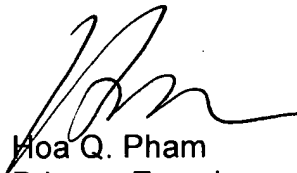
8. Applicant's arguments with respect to claims 1-13, 15-23, 25-37, 39-42, 44-48, 51, 53, 57-63, 85-86 and 97-121 have been considered but are moot in view of the new ground(s) of rejection.
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Following references relate to tablet inspection machine: Bjork (6,639,167), Edamatsu et al (4,446,481), Yoshida (4,776,466), Mitchell (5,085,510), Squyres et al (5,419,438), and Hoffman (5,957,306).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa Q. Pham whose telephone number is (571) 272-2426. The examiner can normally be reached on 7:30AM to 6 PM, Monday through Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hoa Q. Pham
Primary Examiner
Art Unit 2877

HP
December 21, 2005